THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.34597 of 1997

Dated : 20.04.2007

Between:

Mohd. Akber Khan S/o Abdul Aziz Khan

… **PETITIONER**

And:

Government of Andhra Pradesh,
rep., by its Secretary to Government,
Transport, Roads & Buildings (RD-2.2) Department,
A.P. Secretariat, Hyderabad and others.

….**RESPONDENTS**

THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.34597 of 1997

ORDER:

This writ petition is filed seeking a direction to the third respondent to pass award and pay compensation to the petitioner for the house bearing No.11-2, admeasuring 78 square yards situated at Fatehnagar, Hyderabad, acquired from the petitioner.

It is the case of the petitioner that he is the absolute owner of an extent of 78 square yards of land comprising of a house bearing assessment No.11-2 in Sy.No.46/2. The said house along with other land was proposed to be acquired by the Government for the purpose of constructing road over bridge, by issuance of a notification under Section 4(1) of the Land Acquisition Act, 1894 (for short "the Act"). Thereafter, draft declaration under Section 6 of the Act was also

issued, and under a panchanama conducted on 04.08.1997, possession of the house of the petitioner was taken. Petitioner further states that notice under Section
9 of the Act was issued directing him to participate in the award enquiry, and he also submitted his explanation. Though an award enquiry was conducted, the petitioner was never directed to appear for the said enquiry and ultimately award was passed, and to his surprise he was not awarded any compensation for the house acquired from him. Hence, this writ petition.

Despite service of notice, the respondents have not chosen to file any counter.

From a perusal of the material on record, it is clear that houses bearing Nos.11-1 and 11-2 in Sy.No.46/2 are admeasuring 121 square yards and they belong to Ameenabee W/o late Yakub Ali and Akbher Khan. The said Akbhar Khan is none other than the father of the petitioner herein. The draft declaration also indicates the same. The panchanama recorded on 04.08.1997 clearly reveals that the house bearing No.11-1 belonging to Ameena bee is in an extent of 31 square yards, whereas the house baring No.11-2 belonging to Akbhar Khan S/o Hafeed Khan is an extent of 78 square yards. It is further stated that the houses and the asbestos sheet were demolished. Further, the notice issued under Section 9(1) and 10 of the Act dated 10.06.1997 also establishes the fact that the petitioner's father is the owner of house No.11-2 located in Sy.No.46/2. Thus, the petitioner is able to establish his title over the land in question, but surprisingly, the Land Acquisition Officer failed to pass an award so far as the petitioner's house is concerned.

For the foregoing reasons, the writ petition is allowed and the third respondent is hereby directed to consider the explanation offered by the petitioner on 24.06.1997 for payment of compensation and pass

award as provided for under the provisions of the Act. The said exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

20.04.2007

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